



STAFF REPORT

**For the Proposed Adoption of
RULE 214.3 - Agricultural Burning Emission Reduction Credit Bank (ABERC),
RULE 308 - Emission Reduction Credit (ERC) Bank Fees**

**and the Proposed Revisions to
RULE 214 - Emission Reduction Credit (ERC) Banking,
RULE 215 - Community Bank and Priority Reserve**

May 12, 2015

I Background

The New Source Review (NSR) permitting program was established as part of the 1977 Clean Air Act (CAA) Amendments. Designed as a preconstruction permitting program, the NSR's two fold purpose is to protect public health and welfare. This is accomplished by ensuring that air quality is not significantly degraded from the addition of new and modified sources such as factories, industrial boilers and power plants. The NSR program requires a source to install modern pollution control equipment when it is built or when it makes a major modification which causes significant emissions increase. The NSR program requires new or modified sources to obtain a permit and to undertake specific obligations prior to construction to control its emissions. One of those obligations requires sources to offset their calculated emission increase by securing emission reductions from other sources. Standardizing the methodologies and procedures associated with emission reductions necessarily requires an "emissions banking system".

The whole process behind the offset requirement is contingent on "emissions trading". According to the United States Environmental Protection Agency (US EPA), emission trading consists of bubbles, netting, and emission offsets, as well as banking (storage) of Emission Reduction Credits (ERCs) for future use. Essentially, the creation of surplus emission reductions at certain stacks, vents or similar sources of emissions and the use of these emission reductions to meet or redefine pollution control requirements applicable to other emissions sources are part of the emissions trading. ERCs are the common currency, if you will, of all trading that occurs during the NSR process. ERCs may be created by reductions from either: stationary, area, or mobile sources. In order to maintain assurance that the emission trade does not contravene relevant requirements of the CAA, only reductions which are surplus, enforceable, permanent, real, and quantifiable can qualify as ERCs and can be banked or used in an emissions trade. Emission banks offer sources legal recognition that ERCs meet these requirements.

As mentioned above many formal and informal banking systems are an extension of the NSR permitting program. Generally, NSR programs are administered by state and local air pollution permitting authorities. These permitting authorities are required to incorporate basic NSR program requirements into its State Implementation Plan (SIP). Because SIP's are the State's plan to ensure progress toward, or maintenance of,



attainment of all National Ambient Air Quality Standards (NAAQS) all SIP inclusions must be approved by EPA.

The Imperial County Air Pollution Control District (District) implements the ERC banking program through Rule 214, Emissions Reduction Credit (ERC) Banking. The District adopted the first version of Rule 214, September 1993, which allowed the creation of stationary source ERCs (traditional ERCs). However, on May of 1996, Rule 214 was revised to include the creation of ERCs from the reduction of agricultural waste burning ("non-traditional" source). Rule 214 was revised a third time on October of 2006 to allow for the creation of ERCs from mobile sources ("non-traditional" source).

Since the US EPA does not recognize ERCs from, agricultural or mobile sources, ("non-traditional") as valid offsets for "federal purposes" (i.e. projects subject to major modifications and/or new major stationary sources), the District is revising Rule 214 to remove all references to the creation of ERCs from both the agricultural waste burning and the mobile source programs from Rule 214. Concurrently, the District developed a new Rule 214.3 - Agricultural Burning Emission Reduction Credit (ABERC) Bank. These revisions allow the District to submit Rule 214 for SIP approval and to adopt Rule 214.3 as a District/State only enforceable rule. Newly proposed Rule 214.3 creates a viable and needed alternative to offsetting requirements for stationary nitrogen oxides (NOx), volatile organic compounds (VOCs) and PM₁₀ emissions for minor sources on a temporary bases. Because Agricultural Burning ERCs are not acceptable by US EPA as an offset to emission increases from major sources (federal sources), it is the intent of the District NOT to submit the newly proposed Rule 214.3 into the State's SIP.

The District similarly reviewed Rule 215 - Community Bank and Priority Reserve, and in addition to administrative editorial changes the District incorporated some of the requirements previously in Rule 207. The ERCs from the Community Bank and/or Priority Reserve bank, which is maintained by the District, are used to incentivize innovative technology and essential public service projects. Sources which can utilize the Community Bank and/or Priority Reserve are major, small, essential public services, such as schools, hospitals and jails and sources utilizing innovative technology. While the ERC banking is an extension of the NSR permitting program the Community Bank or Priority Reserve is not. Because of this, it is the intent of the District NOT to submit the proposed revisions to Rule 215 - Community Bank and Priority Reserve into the State's SIP.

The District is similarly proposing the adoption of newly proposed Rule 214.3 Agricultural Burning Emission Reduction Credit (ABERC) Bank to separate the agricultural ERC program from Rule 214. Because all ERC programs must meet the requirements of surplus, enforceable, real, permanent and quantifiable Rule 214.3 includes Appendix 1 Manual of Procedures which standardizes calculation methodologies. Rule 214.3 therefore, establishes standardized procedures ensuring that the banking of ERCs resulting from the reduction of open field burning meets all ERC program requirements.

In addition, the District is proposing the adoption of Rule 308 - Emission Reduction Credit (ERC) Bank Fees. In 1993, the District adopted a fee schedule for the implementation of the ERC program. The schedule included an application filing fee, a certificate transfer fee and a duplicate certificate fee. However, the fee schedule cost adjustments have not



kept up with increases in the cost of implementing the ERC program since 1993. Therefore, Rule 308 is being proposed as a mechanism assuring that fee adjustments keep up with the cost of implementation. The proposed Rule 308 includes specific fee schedules for the ERC applications for stationary sources and agricultural burning certificates which includes an adjustment to have a sufficient budget for operating these programs. The proposed rule also includes a provision for an annual CPI adjustment for the application fees which is consistent with all other Regulation III fee schedules. The fee for the transfer of ERC's and the fee for the duplication of certificates will remain unchanged.

The proposed revisions to Rule 214 and 215 and the newly proposed Rule 214.3 and 308 are expected to have a net positive environmental impact, and no significant adverse economic impacts. The proposed revisions also comply with restrictions imposed by California law that prohibit the District from adopting changes to certain rules that make them less stringent.

II RULE 214 EMISSION REDUCTION CREDIT (ERC) BANKING

US EPA's air policy has embraced the theory of trading since 1976, with the introduction of the "offset" policy. This policy allows major stationary sources to credit reductions from other sources as an alternative means of complying with the CAA permitting requirements for major sources. In addition, California Health and Safety Code, Section § 40918, requires stationary sources which emit or have the potential to emit 25 tons per year or more of nonattainment pollutants or their precursors to offset those excess emissions (minor stationary sources). Rule 214 is the District's banking rule and contains the guidelines to issue offsets for major and minor stationary sources. Rule 214 was adopted by our District Board on September 07, 1993 and has been revised three times since its original adoption. Prior revision dates for Rule 214 include May 21, 1996, September 14, 1999 and October 10, 2006. The revision dated October 10, 2006 was submitted to the California Air Resources Board (CARB) for inclusion into the SIP. After it became apparent to the District that US EPA would have issues approving certain sections of the October 2006 revision to Rule 214, specifically issues dealing with permanence and enforceability of the Agricultural and Mobile ERC programs, the request for inclusion into the SIP was withdrawn on May 28, 2010 by the District. The revisions to Rule 214, currently being proposed by the District, address those approvability issues identified by US EPA. Therefore revised Rule 214 does not include Agricultural and Mobile source ERC programs. Finally, two versions of Rule 214 are being proposed for adoption, one version for submittal into the Imperial County portion of the SIP and the second version as a general Rule 214 which includes non-SIP approving requirements, see subsection C.3.d. Below is an explanation of the currently proposed revisions to Rule 214 which address the approvability issues identified with the withdrawal of the October 10, 2006 revision to Rule 214.

A Proposed revisions to Rule 214 Emission Reduction Credit (ERC) Banking

The majority of the proposed revisions include the removal of language which affects approvability of the rule. Essentially, any reference to the creation, storage and transfer



of ERCs from agricultural operations or mobile sources has been removed. In addition, administrative changes were made throughout the rule for consistency and clarity.

Section A.1.a: Administrative and clarification changes include the addition of language indicating that offsets are included in the banking if they meet the requirements of the District's Rule 207.

Section A.1.b: Administrative clarification replaced Surplus emission reductions with ERCs

Section A.1.c: Administrative clarification acronym ERC added.

Section A.2.a: Clarified the type of transactions the Rule covers.

Section A.2.b: Deleted entire section because of reference to Agricultural Operations

Section A.2.c: Deleted entire section because of reference to Mobile Sources

Section B: this section now refers the reader to Rule 207, Section B, for an explanation of definitions.

Section C.2: was revised to expressly consider those emission reductions created prior to September 7, 1993.

Section C.2.b: the original paragraph was removed in its entirety and replaced with a new paragraph that expressly identifies those emission reductions created between January 1, 1988 and September 7, 1993 as valid ERCs only if they meet two sub-conditions listed under C.2.b.1 and C.2.b.2.

Section C.2.b.1: is a new sub-section and is a condition to the creation of an ERC with emission reductions occurring between January 1, 1988 and September 7, 1993

Section C.2.b.2: is a new sub-section and is a condition to the creation of an ERC with emission reductions occurring between January 1, 1988 and September 7, 1993.

Section C.2.c: the original paragraph was removed in its entirety and replaced with a new paragraph initiating a discussion about those emission reductions created prior to January 1, 1988 and which were recognized as valid utilizing a prior banking/tracking mechanism. These emission reductions will remain valid contingent on stipulated conditions.

Section C.2.c.1: is a new sub-section identifying a stipulated condition for the validity of those emission reductions created prior to January 1, 1988.

Section C.2.c.2: is a new sub-section identifying a stipulated condition for the validity of those emission reductions created prior to January 1, 1988.



Section C.2.c.3: is a new sub-section identifying a stipulated condition for the validity of those emission reductions created prior to January 1, 1988.

Section C.2.d: the original paragraph was removed in its entirety and replaced with a new paragraph identifying the conditions under which emission reductions created before September 7, 1993 may be considered as valid ERCs.

Section C.2.d.1: is a new sub-section identifying a stipulated condition for the validity of an ERC created from emission reductions prior to September 7, 1993.

Section C.2.d.2: is a new sub-section identifying a stipulated condition for the validity of an ERC created from emission reductions prior to September 7, 1993.

Section C.2.d.3: is a new sub-section identifying a stipulated condition for the validity of an ERC created from emission reductions prior to September 7, 1993.

Section C.2.b through section C.2.j: were removed entirely because of the references to agricultural burning and/or because the section was clarified with specific stipulations and language changes. The sections explaining the validity of emission reductions prior to and after January 1, 1988 and September 7, 1993 were clarified in new sub-sections C.2.b.1, C.2.b.2, C.2.c.1, C.2.c.2, C.2.c.3, C.2.d.1, C.2.d.2, C.2.d.3 respectively. Subsection C.2.j was replaced by subsection C.3.f.

Section C.3: the original section was completely removed from the rule as it was a discussion of agricultural burning. This section was replaced with a discussion of emission reductions created after September 7, 1993 and how they are to be recognized as valid ERCs.

Section C.3.a: the original section was completely removed from the rule as it was a discussion of agricultural burning. This section was replaced as a sub-section to C.3 and contains the conditions required for the validation of emission reductions created after September 7, 1993 as ERCs.

Section C.3.b: the original section was completely removed from the rule as it was a discussion of agricultural burning. This section was replaced as a sub-section to C.3 and is a discussion on the calculation of Actual Emission Reductions and the effect on the Community Bank.

Section C.3.c: the original section was completely removed from the rule as it was a discussion of agricultural burning. This section was replaced as a sub-section to C.3 and gives the time table for the filing of an ERC application and its relation to the creation of the emission reduction.

Section C.3.d: the original section was completely removed from the rule as it was a discussion of agricultural burning. This section was replaced with as a sub-section to C.3 and is a discussion of the creation of ERCs from a non-permitted source. This sub-section is not intended to be submitted for inclusion into the SIP.



Section C.3.e: is a new sub-section of C.3 and is specific to the creation of emission reductions of Toxic Air Contaminants (TAC) and their eligibility for deposit into the Community Bank and use. The use is specific as an Offset can only be applied to like emissions and not increases in TACs.

Section C.4.a: was revised to clarify that only voluntary and/or permanent shutdowns are considered for emission reductions.

Section C.4.b: only administrative changes were made – acronyms were corrected or included for consistency throughout the document.

Section C.5 and sub-section C.5.a: were completely removed as they referenced Mobile Source emissions.

Section D.2: this section was revised to include a specific time frame for the submittal of an ERC application.

Section D.4: this section was revised to reflect the correct rule name and the subsequent federal section applicable to confidential information contained in an application.

Section D.5 and all the sub-sections D.5.a-d: contain administrative changes and acronym corrections.

Section D.7: has an acronym correction

Section D.8: the original paragraph was completely removed and replaced with a discussion concerning the closure of military bases and the procedures for the certification of emission reductions and the creation of ERCs.

Sections D.9, D.10 and D.13: several acronym corrections.

Sections D.12: several acronym corrections, this section was modified to require publication of all District initial assessments of ERC applications (no minimum threshold). In addition, the last sentence was modified to allow publication of final decision

Section E and F: all have administrative changes and acronym corrections

Section F.3: clarifies that transfers in whole in part of an ERC must be in accordance with the provision of Rule 214.

Section G and H: were removed- A new fee Rule was created which will not be made part of the SIP package.

III RULE 215 COMMUNITY BANK AND PRIORITY RESERVE



Rule 215 was established to facilitate industrial growth in Imperial County. The Community Bank specifically targets those sources who find it difficult to obtain emission reductions or ERCs to comply with their obligations under the NSR permitting program. Both major and smaller sources and essential public services are eligible if they meet certain specified requirements.

Rule 215 is the District's Community Bank and is being revised simply because a significant revision to Rule 207 - New and Modified Stationary Source, eliminated some of the sections dealing with the Community Bank. Those references eliminated from Rule 207 have been incorporated into revised Rule 215. Rule 215 was adopted by our District Board on September 07, 1993 with a subsequent revision on September 14, 1999. Below is an explanation of the currently proposed revisions to Rule 215.

A. Proposed revisions to Rule 215

As mentioned above, revisions to Rule 207 eliminated a critical reference to Rule 215. Therefore, the proposed revisions, as discussed below, to Rule 215 include those eliminated references. The eliminated references explained the funding of the Community Bank and are essentially found within section F of proposed Rule 215. In addition, administrative changes were made throughout the rule for consistency and clarity.

Section A.1: Administrative and clarification changes

Section A.2: Administrative and clarification changes

Section B: Reference to Rule 207, Section B, for clarification of definitions applicable to Rule 215.

Section C: Administrative and clarification changes

Section D.2: Administrative and clarification changes

Section E: Administrative and clarification changes

Section E.1.a: Administrative and clarification changes

Section E.2.b: Administrative and clarification changes

Section E.2.c: Administrative and clarification changes.

Section E.3.c: Administrative and clarification changes.

Section F.1: This language was originally within Rule 207, New and Modified Stationary Source Review. This paragraph explains the purpose of the adoption of the Community Bank. Old reference removed.



Section F.2: This language was originally within Rule 207, New and Modified Stationary Source Review. This paragraph explains how and under what conditions the Community Bank is to be funded. It includes four Subsections.

Section F.2.a: This paragraph explains the percentage that will be used to fund the Community Bank. This paragraph also explains that the reductions are those created after September 7, 1993.

Section F.2.b: This paragraph explains that excess offsets will be used to fund the Community Bank.

Section F.2.c: This paragraph explains that unclaimed ERCs since September 7, 1993 that are not used in an air quality attainment plan will fund the Community Bank.

Section F.2.d: Those emission reductions identified in the California Clean Air Act will be used to fund the Community Bank.

Section F.3 including its subsection F.3.a thru F.3.e: were renumbered for consistency

Section F.3.d: Administrative and clarification changes.

Section G.1.b: Administrative and clarification changes.

IV RULE 214.3 AGRICULTURAL BURNING EMISSION REDUCTION CREDIT (ABERC) BANK

The District has been implementing an agricultural burning emission reduction credit bank since 1996 under Rule 214. The District is proposing the adoption of Rule 214.3 Agricultural Burning Emission Reduction Credit (ABERC) Bank to remove this program from Rule 214. Rule 214.3 establishes procedures, which ensures the banking of ERCs resulting from the reduction of open field burning as meeting the requirements for surplus, enforceable, real, permanent and quantifiable.

Rule 214.3 is an administrative rule which codifies the District's current procedures for calculating and enforcing agricultural waste burning emission reductions. Under Rule 214.3, emission reductions will be calculated using standard US EPA and CARB calculation methodologies. The principal effect of the adoption of Rule 214.3 will be to make it possible for facilities needing to offset emissions on a temporary basis to have these offsets available. Since burning of agricultural waste is a nontraditional source of air emissions, agricultural ERCs issued under Rule 214.3 are not recognized by the US EPA as being valid for "federal purposes" (ie. major modification projects or new major stationary sources). Therefore, agricultural burning ERCs are only allowed as offsets for minor sources and enforceable only at the District and State level.

The District's newly proposed Rule 214.3 is formatted as a standard District rule including sections containing Purpose, Applicability, Eligibility, Definitions, Application Procedures, Registration, Withdraw, and Manual of Procedures.



The following is a general discussion of the newly proposed Rule 214.3:

- Section (A) - Rule Purpose and Applicability: The purpose of this rule is to ensure that all agricultural emission reductions are transferred through the Air District's ERC Bank. The provisions of this Rule would apply to any eligible applicant who has (or will) apply for ABERCs. This section establishes that this rule is an administrative mechanism to store, transfer and define eligibility standards for agricultural burning emission reduction credits (ABERC). Only agricultural burning permitted under District's rules is eligible to apply for agricultural burning ERCs.
- Section (B) - Eligibility of Agricultural Burning Emission Reductions: This rule ensures that ABERCs are real, permanent, quantifiable, enforceable and surplus. This rule requires quantifying ABERCs in accordance with the guidelines of District's manual of procedures. Since burning of an agricultural field is a one time a year event, ABERCs are issued as a non-permanent one year credit. The lifespan for use of ABERCs is restricted to two years of the full value and reduces one quarter of the value per year until its zeroes at the end of year fifth.
- Section (C) - Definitions: This section defines 2 new terms used in the rule: Agricultural Burning Emission Reduction Credit (ABERC) and ABERC Certificate. Other terms applicable to this rule and not included in this rule are found in Rule 101, Definitions.
- Section (D) - ABERCs Application Procedures. All applications for ABERCs shall include the information listed in the District's Forms. All applications are required to be submitted not more than 90 days or less than 30 days prior to the agricultural burn is scheduled to occur. Application shall contain sufficient information to allow adequate evaluation of emission reduction. This section includes also the process for making the ABERC application and evaluation available for public review and comment when application is for a parcel more than 500 acres.
- Section (E) - Registration of ABERCs Certificates: This section includes the District's procedures for issuing and registering ABERCs certificates.
- Section (F) - Withdrawal, Transfer, and Use of ABERCs. This section includes the District's procedures for use and transfer ABERCs.
- Appendix 1 - Manual of Procedures: this manual sets forth procedures relating to the application, calculation, review, registration, tracking and use of Emission Reduction Credits arising from the reduction in open burning of biomass material as provided in Rule 214.3.

V RULE 308, EMISSION REDUCTION CREDIT (ERC) BANK FEES



Air Pollution Control District

The revenue to fund the District's annual operating budget generally comes from the following three sources: District Fees (Regulation III, Fees), funds from the Department of Motor Vehicles, State and Federal Grants. The majority of the District's operating program is funded by fees collected under Regulation III. Because the fee schedules to implement the ERC program have not been adjusted since the adoption of Rule 214 in 1993, the District's revenue stream from these fees are not sufficient to cover the cost of operating the ERC program. Therefore, the District is proposing the adoption of Rule 308 - Emission Reduction Credit (ERC) Bank Fees. Rule 308 is an administrative rule which includes a schedule of fees for filing an application, for the transfer of certificates and the duplication of certificates. Rule 308 similarly address the cost of public noticing and incorporates a provision for the payment of public noticing fees for those ERC projects subject to public notice. The newly proposed Rule 308 includes a separated fee for stationary sources ERC applications and agricultural burning certificates. Finally, Rule 308 includes a provision for an annual Consumer Price Index (CPI) adjustment for the application fees consistent with all other Regulation III fee schedules.

The following is a general discussion of the proposed Rule 308:

- Section A - ERC Certificate Fee: every applicant for ERCs certificate (stationary) will pay a fee of \$185.50 for the year 2015. This fee will be adjusted annually according to CPI. The ERC certificate fee will increase from \$85.00 to \$185.50 to have sufficient budget for operating this program.
- Section B - Agricultural Burning ERC Certificate Fee: every applicant for agricultural ERCs certificate will pay a fee of \$185.50 for each 210 acres for the year 2015. This fee will be adjusted annually according to CPI. The Agricultural ERC certificate fee will increase from \$85.00 to \$185.50 for each 210 acres to have sufficient budget for operating this program.
- Section C - CPI Adjustment: in order to keep up with inflation, the Air District will conduct an annual adjustment to the ERC certificate application fee by multiplying the ERC Certificate fee for the previous year by the CPI.
- Section D - Public Noticing: the air district will recover the cost for public noticing for those ERC applications which are subject to this requirement. The cost incurred by the air district for public noticing will be charged to the applicant at the time of ERC certificate issuance.
- Section E - Evaluation Analysis Fee: every applicant who files an application for ERC certificates will pay an engineering evaluation and materials fee for the processing of the application. The fee shall be calculated using the staff hours expended and the prevailing weighted labor rate. Agricultural ERCs applications are exempted.
- Section F - Transfer Fee: requires payment of an \$85.00 fee for transfer of ownership of an ERC certificate; this fee remains unchanged.



Section G - Cancellation or Denial: this section clarifies that if an application is canceled or denied the filing fee is not refundable.

Section H - Duplicate Certificate: requires payment of a \$20.00 fee for issuing a duplication of an ERC certificate; this fee remains unchanged.

VI REQUIRED ELEMENTS/FINDINGS

Before adopting, amending or appealing any rule or regulation the Governing Board of the District is required to make specific findings of necessity, authority, clarity, consistency, non-duplication, and reference (Health & Safety Code §40727). The District is also required to hold a public meeting after the rule or regulation has been properly noticed (Health & Safety Code §40725). Relevant information supporting each of these findings and the propriety of the notice for the public hearing is presented below.

<u>FINDING</u>	<u>DEFINITION</u>	<u>REFERENCE</u>
Authority	The District has authority to adopt, amend, or repeal the rule by a provision of law or a state or federal regulation.	California Health and Safety Code, Section 40702 and Section 41010; 1990 Federal Clean Air Act, Section 110(a)(2)(H) and Section 182(d).
Necessity	The proposed revisions to Rule 214, 215 and newly proposed Rule 214.3 are needed to generate ERCs to use to satisfy state and federal offset requirements for new and modified sources. In addition, Rule 308 is needed to generate the funds to operate the program.	It is necessary for the District to adopt this rule in order to fulfill the requirements of the Federal Clean Air Act Amendments of 1990.
Clarity	These rules are written or displayed so that its meaning can be easily understood by the persons directly affected by it.	There is no indication at this time that the rule is not written in such a manner that the person affected by the rule can easily understand it.



Consistency	These rules are in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations. The proposed revisions to Rules 214, 215 and newly proposed Rule 214.3 provide procedures used to quantify and create ERCs for use as offsetting emissions reductions for new or modified stationary sources.	The District has found that the rule is consistent with existing state and federal guidelines.
Non-duplication	These rules do not impose the same requirements as an existing state or federal regulation. While state and federal laws set forth the underlying requirements for offsetting emission reductions and conditions necessary for such offsets to be fund real, permanent, surplus and quantifiable such laws do not provide specific formulas for calculation nor do they provide the procedures to be followed for offset generation. Newly proposed and revised Rules provide the procedures used to quantify and generate stationary source ERCs and agricultural burning ERCs.	The District has found that these rules are consistent with existing state and federal regulations.
Reference	Any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending, or repealing the rule.	The District has the authority pursuant to H&S Code, Section 40702 to adopt, amend or repeal rules and regulations.

VI. COST EFFECTIVENESS AND SOCIOECONOMIC IMPACT ANALYSIS

Pursuant to the California H&SC Section 40920.6(a), the District is required to analyze the cost effectiveness of new rules or rule amendments that implement Best Available Retrofit Control Technology (BARCT). The proposed rules are administrative rules and they will not require existing sources to be retrofitted with additional control technology; therefore, they are not subject to the cost effectiveness analysis mandate.

Costs to Businesses: Section 40703 of the California Health and Safety Code requires



that air districts consider and make public findings relating to the cost effectiveness of implementing an emission control measure. The requirements of these rules do not constitute emission control measures, nor do they require any additional emission control equipment or emission reductions. However, some cost will be incurred by persons or sources that are eligible to bank and/or use ERCs which is a voluntary action.

The cost to bank will vary depending on the time expenditure of District staff to process and track the usage of said credits, and the cost reduce emissions. The value of banked credits is determined by the market (ie. negotiated between the buyer and seller) and will vary considerably based on supply and demand considerations.

Cost to District: The cost to the District has the potential to be significant, depending on the number of recertified and new applications filed and processed. The District has fee provisions to assess fees to recover costs of processing the ERC applications. The District will recover administrative costs associated with implementation of this rule through the proposed ERC application fee process and an additional fee to recover cost of time and materials.

Additionally, state law requires the District to analyze the socioeconomic impacts of any proposed rule revision that significantly affects air quality or strengthens an emission limitation. As an administrative rule in support of the existing Rule 207, the proposed Rules will not have an adverse economic impact. The District will recover administrative costs associated with implementation of this rule through the existing ERC application fee process and an additional fee to recover cost of time and materials.

VII. ENVIRONMENTAL ASSESSMENT

Pursuant to §15061 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), District staff analyzed the likely environmental impacts of the proposed revisions to Rules 214, 215 and newly proposed Rules 214.3 and 308. The rules are considered a project under CEQA.

Revised Rules 214 and 215 and newly proposed Rules 214.3 and 308 are administrative rules. These rules do not have a significant nor detrimental effect on the environment or on humans due to unusual circumstances. Revised Rule 214 will include some administrative language change to improve clarity and assure SIP approval. The newly proposed Rule 214.3 is similarly an administrative rule which sets the guidelines for issuing ERCs from reducing agricultural burning. The revisions to Rules 214 and 215 and newly proposed Rules 214.3 and 308 do not include the tightening of limits, the establishment of new limits, or the requirement of additional add-on equipment. §15061(b)(3) of the CEQA Guidelines allows for an exemption when a project does not have the potential for causing a significant effect on the environment. Based on the information provided above, District staff concluded that the proposed revisions to Rules 214 and 215 and newly proposed Rules 214.3 and 308 do not have any significant adverse effect on the environment. In fact, it is with certainty that there is no possibility that the proposed rules may have a significant effect on the environment therefore the project as proposed is not subject to CEQA.



VIII RULE DEVELOPMENT PROCESS

District Staff conducted a public workshop on April 1, 2015 to present, discuss and take comments on the proposed rulemaking. The District considered written comments received from the public and affected sources during the public workshop process and these comments have been incorporated into the proposed draft rules as appropriate.

A Public notice for a public hearing inviting the community to review and comment on the proposed rule revisions was published in the Imperial County local newspaper of greatest circulation, the Imperial Valley Press, on April 10, 2015 and the District's website.

Adoption by our Governing Board is scheduled for May 12, 2015, after which Rule 214 will be forwarded to US EPA for inclusion into the SIP.

IX RECOMMENDATIONS

A. APCD ADVISORY BOARD

The Air Pollution Control District Advisory Board met to discuss the proposed revisions and newly proposed rules on April 15, 2015. The APCD Advisory Board recommended the approval of the newly proposed and revised rules.

B. STAFF RECOMMENDATION

The Air District staff recommends the adoption of the proposed revisions to Rule 214, Emission Reduction Credit (ERC) Banking, proposed revisions to Rule 215, Community Bank and Priority Reserve, newly proposed Rule 214.3, Agricultural Burning Emission Reduction Credit (ABERC) Bank and proposed Rule 308, Emission Reduction Credit (ERC) Bank Fees. After considering public comments at today's hearing, District staff recommends that the Air Board determine that the adoption of revised Rule 214 and 215 and newly proposed Rule 214.3 and Rule 308 are exempt from CEQA.

C. DECLARATION OF FINDING

The Imperial County Air Pollution Control District Board of Directors hereby finds as follows:

The adoption of the newly proposed and revised rules for the Imperial County, is considered a project within the meaning of §21065 of the California Environmental Quality Act (CEQA).

The adoption of the staff report, its findings and appendix are exempt from the requirements of Public Resources Code Section 21000 et seq. under the CEQA Guidelines, in the California Code of Regulations §15061 (b)(3).

The District is a regulatory agency and the public agency with the principle responsibility for carrying out projects related to air pollution and the control thereof.



Clean air is a valuable and essential natural resource.

The newly proposed and revised rules will serve to reduce the amount of criteria air pollutants introduced into the ambient air.

The adoption of the newly proposed and revised rules will serve to enhance and protect the environment by controlling air pollutant sources of criteria pollutants.

There has been no evidence presented to suggest that the implementation of the newly proposed and revised rules, the staff report, its findings or appendix will have an adverse effect on the environment.

There has been no evidence presented to suggest that the implementation of the proposed revised rules, the staff report, its findings and the appendix will lead to or result in cumulative adverse impacts.

Health and Safety Code §40702 provides the authority to the District to enact and adopt the newly proposed and revised rules.

The requirements of the newly proposed and revised rules, the staff report, its findings and appendix are clear and capable of being understood by those persons directly affected by it.

The newly proposed and revised rules, the staff report, its findings and appendix do not conflict with or contradict any existing statute, court decision, or state or federal regulation.

The requirements of the newly proposed and revised rules, the staff report, its findings and appendix are not duplicative of any existing state or federal regulation.

The newly proposed and revised rules, the staff report, its findings and appendix described herein will not significantly affect air quality or emissions limitations and therefore is exempt from California Health and Safety Code section §40728.5 (d), which requires a socioeconomic impact analysis of the proposed action to be performed.

The Imperial County has a population of less than 500,000 people.